

STATE OF MICHIGAN  
COURT OF APPEALS

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ROBERT HADDIX, Individually and as Next  
Friend of BOBBI HADDIX, a Minor,

UNPUBLISHED  
August 18, 1998

Plaintiffs-Appellants,

v

No. 200394  
Oakland Circuit Court  
LC No. 96-514526 NI

JOHN ARLO BENETTI,

Defendant-Appellee.

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Before: Cavanagh, P.J., and White and Young, Jr., JJ.

PER CURIAM.

Plaintiff Robert Haddix, individually and as next friend of Bobbi Haddix, appeals as of right from the trial court order granting defendant's motion for summary disposition pursuant to MCR 2.116(C)(10). We reverse.

The trial court granted defendant's motion for summary disposition pursuant to the wrongful conduct rule. However, in *Poch v Anderson*, \_\_\_ Mich App \_\_\_, \_\_\_; \_\_\_ NW2d \_\_\_ (Docket No. 198938, issued 3/27/98), this Court recently clarified that the wrongful conduct rule does not automatically bar an action when a plaintiff has violated a statute. Violation of a penal statute can be prima facie evidence of negligence. Michigan has adopted a comparative negligence system, in which a plaintiff's negligence merely reduces the amount of her recovery. See *id.* at slip op p 4. If a complete cause of action can be shown without the necessity of proving the plaintiff's illegal act, the plaintiff will be permitted to recover notwithstanding that the illegal act may be important in explaining the other facts of the case. See *id.* at slip op pp 4-5.

In the instant case, plaintiff's criminal acts, like the plaintiff's in *Poch*, are not the source of her cause of action. Furthermore, plaintiff's wrongful conduct was not of the type that typically invokes the rule and bars a plaintiff's cause of action. See *id.* at slip op p 5. Accordingly, we reverse the trial court's grant of defendant's motion for summary disposition.

Reversed. Plaintiffs being the prevailing parties, they may tax costs pursuant to MCR 7.219.

/s/ Mark J. Cavanagh

/s/ Helene N. White

/s/ Robert P. Young, Jr.